IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10243 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

BHARATBHAI MULJIBHAI KAKAIYA - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

==========

Appearance :
MR AJ SHASTRI for Petitioner(s) : 1,
MR LR PUJARI GOVERNMENT PLEADER for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 3.

==========

CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 19/12/2007

ORAL JUDGMENT

1.0 By way of this petition, the petitioner has prayed to quash and set aside the order

passed by the Dy. Superintendent of Stamps, Stamps and Registration Bhawan, Sector-13, Gandhinagar dated 08.06.2006 and to direct the respondent-Authorities to release the document i.e. Sale Deed No.1221 dated 24.07.2001.

2.0 The brief facts of the case are that the petitioner, herein, purchased a property being survey No.175 of 2002 ad-measuring 3656.60 sq.mts situated in the 'sim'(boundary) of village Dumiyani, taluka Upleta of Rajkot district vide registered Sale Deed No. 1221 dated 24.07.2001.

2.1 Through a communication dated 24.07.2001 sent by the Sub-registrar, the petitioner came to know that the stamp duty paid by him was less by Rs.70,388/-. Thereafter, the petitioner received a notice dated 18.03.2002 issued by respondent No.3 calling upon him to remain present before it on 10.04.2002. Since, the said date was not convenient, an adjournment was sought by the petitioner. In pursuance of that the petitioner

tried to inquire about the next date from the office of respondent No.3 several times and on all the occasions, he was told that the next date will be communicated to the petitioner later on.

2.2 Thereupon, the petitioner came to know about the order passed by respondent No.3 being Final Order dated 29/4-6/02. Being aggrieved with the same, the petitioner preferred an appeal against the aforesaid order which was came to be rejected vide order dated 08.08.2005. The petitioner, therefore, preferred a petition before this Court being Special Civil Application No.19181 of 2005. This Court(Coram:K.S. Jhaveri,J.) quashed and set aside the impugned order and remanded the matter to respondent No.2 for its consideration afresh on merits.

2.3 The petitioner, thereupon, filed written submissions before respondent No.2. However, to the utter shock and surprise of the petitioner, vide impugned order dated 08.06.2006 respondent

No.2 rejected the appeal of the petitioner and ex-parte held that the market value of the property in question determined by respondent No.3 was just and proper. Hence, the present petition.

3.0 Mr. Shashtri, learned Advocate for the petitioner has submitted that the respondent No.2 ought to have given an opportunity of hearing to the petitioner and ought to have taken into consideration the written submissions / arguments filed by the petitioner before it, before passing the impugned order.

3.1 Learned Advocate has submitted that neither any material supplied nor any reasons are assigned for the valuation done by the respondent No.3.

4.0 Heard learned Counsel for the parties and perused the documents placed on record it transpires that respondent No.2 has neither

supplied any material to the petitioner on the basis of which the valuation of the property has been determined by respondent No.3 nor has given any reasons as to on what basis it came to the conclusion that the market value of the property in question determined by respondent No.3 is just and proper. In that view of the matter here it would be relevant to refer to decision of this Court in the case of ***"B.M. Bharwad Vs. State"*** reported in 2005(2) GLR 1792 wherein ***it has been observed that it is the statutory duty of the Officer to convey in the notice the material on the basis of which the valuation of the property has been determined***.

4.1 In the case on hand, the respondent No.2 has not supplied any material to the petitioner on the basis of which the valuation of the property of the petitioner was determined. Respondent No.2 has also not given any reasons as to on what basis he came to the conclusion that the market value of the property of the

petitioner determined by respondent No.3 was just and proper. Apart from that from the record it transpires that though the petitioner had filed written submissions / arguments on 05.12.2005 and on 20.03.2006, the same were not taken into consideration by respondent No.2. On the contrary, respondent No.2, without giving an opportunity of hearing to the petitioner, observed that the market value of the property of the petitioner, determined by respondent No.3 was just and proper.

4.2 The aforesaid fact shows that the respondent No.2 has passed the impugned order without applying his mind. Admittedly, neither any material has been supplied nor any reasons have been assigned by respondent Nos.2 for passing the impugned order.

4.3 The respondent No.2 is quasi-judicial Authority, and hence,being a quasi-judicial authority, it is required to supply the relevant

material on the basis of which the valuation of the property of the petitioner was determined. Apart from that, it is also required to deal with the contentions raised by the parties concerned and to consider various provisions of the Act and the law laid down by this Court. I am, therefore, of the opinion that the ends of justice would be met if the matter is remanded to the respondent No.2 for its consideration afresh on merits.

5.0 In the result, the petition is partly allowed. The impugned order passed by respondent No.2-the Dy. Superintendent of Stamps, Stamps and Registration Bhawan, Sector-13, Gandhinagar dated 08.06.2006 is quashed and set aside. The matter is remanded to the respondent No.2-Authority for its consideration afresh on merits. The respondent No.2-Authority, after hearing the petitioner and after considering all the contentions raised before it, shall pass a reasoned order without being influenced by the

order passed by this Court. Rule is made absolute to the aforesaid extent. No order as to costs.

(M.D. Shah,J.)

Umesh/